

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
VALDOSTA DIVISION

BARBARA ARRINGTON,

Plaintiff,

V.

WAL-MART STORES, INC. and  
WAL-MART STORES EAST, LP,  
(DELAWARE) d/b/a WAL-MART,

Defendants.

CIVIL ACTION FILE NO.

## NOTICE OF REMOVAL

COMES NOW Wal-Mart Stores, Inc. and Wal-Mart Stores East, LP,  
Defendants in the above action, by and through counsel of record, and within the  
time prescribed by law, file this Notice of Removal in the United States District  
Court for the Middle District of Georgia, Valdosta Division, and invokes this  
Court's jurisdiction over this matter, showing the Court as follows:

1.

Plaintiffs initiated this personal-injury action on or about October 8, 2013 by filing the original Summons and Complaint in the State Court of Lowndes County, Georgia, styled as above (Civil Action File No. 2013CV2185). Plaintiffs' complaint was served on Defendant on or about October 21, 2013. (Exhibit "A",

Service of Process Transmittal). Plaintiffs' claims against Defendant include claims of negligence and personal injury.

2.

Pursuant to the provisions of 28 U.S.C. §§1446, Defendant attaches hereto as Composite Exhibit "A", copies of all pleadings and orders served upon Defendant, including copies of all pleadings filed to date in the State Court of Lowndes County Georgia for the above-styled case.

3.

This case is subject to removal under 28 U.S.C. § 1332.

4.

Defendant Wal-Mart Stores, Inc. is a Delaware corporation, with primary business offices in Arkansas, and was not a citizen of the State of Georgia at the time of, or immediately prior to, the filing and service of said lawsuit, or at any time thereafter. (See Exhibit "B").

5.

Defendant Wal-Mart Stores East, LP. is a Delaware corporation, with primary business offices in Arkansas, and was not a citizen of the State of Georgia at the time of, or immediately prior to, the filing and service of said lawsuit, or at any time thereafter. (See Exhibit "C").

6.

Plaintiff is a resident of Lowndes County, Georgia. (See Exhibit "A", Plaintiffs' Complaint, ¶1.)

7.

With respect to removal on the basis of diversity jurisdiction, this removal is timely because it has been filed within thirty (30) days after receipt by Defendant, through service or otherwise, a copy of the initial pleadings setting forth the claim for relief upon which such action or proceeding is based.

8.

Plaintiffs' Complaint alleges that as a result of Defendant's alleged negligence, "Plaintiff suffered serious and permanent personal injuries to her body" and that she "has suffered excruciating pain, she still suffers pain, and she will always thus suffer from her injuries." (Exhibit "A", Complaint, ¶¶ 19-20)

9.

Plaintiffs' Complaint alleges that she has incurred medical expenses for the treatment of her injuries in the amount of \$44,262.25. (Exhibit "A". Complaint ¶ 21). Plaintiff also seeks general damages for past, present and future pain and suffering" and includes an open-ended demand for judgment. (Exhibit "A", Complaint, ¶¶ 22-23) Therefore, the amount in controversy, exclusive of interest

and costs, between Plaintiffs and Defendant is likely to exceed the sum of \$75,000.00.

10.

On October 25, 2013 counsel for Defendant notified counsel for Plaintiffs that he was considering removal to this Court. In order to confirm the amount in controversy, counsel for Defendant asked counsel for Plaintiffs to stipulate that Plaintiffs would not seek damages in this case in excess of \$75,000.00. (See Exhibit "D"). Plaintiffs' counsel refused this request on November 18, 2013 in an email to Defendant's counsel. (See Exhibit "E")

11.

This Court has jurisdiction of this matter pursuant to 28 U.S.C. §§ 1332 (a) and 1441 because complete diversity exists between the parties and the amount in controversy is open-ended and exceeds \$75,000.00.

12.

Pursuant to 28 U.S.C. § 1447 Defendant is not required to file a removal bond.

13.

By service of a copy of this Notice of Removal as evidenced by the Certificate of Service attached, Defendant hereby gives notice of such removal to

Plaintiffs as required by 28 U.S.C. § 1446.

14.

A true and correct copy of this Notice of Removal will be filed with the Clerk of State Court of Lowndes County, Georgia as required by 28 U.S.C. §1446.

**Wherefore**, Defendant prays that the above captioned lawsuit be removed to the United States District Court for the Middle District of Georgia, Valdosta Division, that this Court take cognizance and jurisdiction over this claim from the State Court of Lowndes County, Georgia, and that this action shall proceed as removed and under this Court's jurisdiction under 28 U.S.C. 1332.

Respectfully submitted, this 19th day of November, 2013.

**DREW, ECKL & FARNHAM, LLP**

/s/ Michael L. Miller

Hall F. McKinley  
Georgia Bar No. 495512  
Michael L. Miller  
Georgia Bar No. 508011  
Leslie P. Becknell  
Georgia Bar No. 046320  
Attorneys for Defendant

880 W. Peachtree Street  
Atlanta, GA 30309  
404-885-1400  
404-876-0992 (fax)  
Hmckinley@deflaw.com  
Mmiller@deflaw.com  
Lbecknell@deflaw.com

**CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 5.1.B**

Counsel for these Defendants hereby certifies that this pleading was prepared in Times New Roman, 14 Point, in compliance with Local Rule 5.1.B.

880 West Peachtree Street  
Atlanta, Georgia 30309

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P.O. Box 7600  
Atlanta, Georgia 30357-0600  
Tel: (404) 885-1400  
Fax: (404) 876-0992  
HMckinley@deflaw.com  
LBecknell@deflaw.com

**DREW, ECKL & FARNHAM, LLP**

/s/ Leslie P. Becknell

Leslie P. Becknell  
Georgia Bar No. 046320

*Attorney for Defendants*

**CERTIFICATE OF SERVICE**

This is to certify that I have this day forwarded, via United States Mail, postage prepaid, and with the Court's CM/ECF system, as prescribed by the Court, which will automatically send electronic notification of same to following counsel of record a true and correct copy of the foregoing *Notice of Removal* to the following counsel of record, addressed as follows:

John C. Cotton  
Cotton Law Firm, P.C.  
Post Office Box 897  
Cordele, GA 31010-0897

Sam Dennis  
Maniklal & Dennis, LLP  
Post Office Box 1865  
Valdosta, GA 31603-1865

This 19th day of November, 2013.

**DREW, ECKL & FARNHAM, LLP**

/s/ Leslie P. Becknell  
Leslie P. Becknell  
Georgia Bar No. 046320  
Attorneys for Defendant

880 West Peachtree Street  
Atlanta, Georgia 30309  
(404) 885-1400